

BOX TTAB FEE

Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation, believes it will be damaged by the registration of the mark identified above and hereby opposes the registration of the mark.

As grounds of Opposition, Toyota alleges:

1. Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation, is a corporation of Japan located at 1, Toyota -cho, Toyota-shi, Aichi-ken, Japan 471-8571.
2. Jack Schwartz Shoes, Inc. is a corporation of the State of New York, located at 155 Avenue of the Americas, New York, New York 10013.
3. Since prior to the earliest date that can be asserted by Jack Schwartz Shoes, Inc., Toyota has used a Design of L in oval as a trademark and service mark to identify its automotive vehicles and services related thereto.
4. Toyota is the owner of Registration No. 1,834,147, issued May 3, 1994, for the trademark L & Oval Design LEXUS, which registration includes, among other goods, articles of clothing and sportswear in Class 25.
5. On August 29, 2001, Jack Schwartz Shoes, Inc. filed Application Serial No. 76/306,296 to register as a trademark L & Circle Design for clothing, namely t-shirts, sweat shirts, shorts, jackets, pants, swim suits, tops, belts, tank tops, warm-ups suits, headbands, hats, and footwear. The Application was filed on the basis of a bona fide intention to use the mark.
6. The mark of Serial No. 76/306,296 is confusingly similar to the L & Oval Design mark of Toyota, which is used separately on its vehicles and which is a distinctive component of the mark registered under Registration No. 1,834,147.
7. The goods identified in Serial No. 76/306,296 are in part identical with, and in part closely related to, the articles of clothing and sportswear in Class 25 identified in Toyota's Registration No. 1,834,147.
8. The goods identified in Application Serial No. 76/306,296 are in part identical with, and in part closely related to, goods on which Toyota, through licensees, has continuously

used the L in Oval Design mark apart from the trademark LEXUS since prior to the filing date of Application Serial No. 76/306,296.

9. The use and registration of the mark identified in Application Serial No. 76/306,296 is likely to cause confusion, deception, or mistake by virtue of its resemblance to Toyota's previously used and registered mark for the same and closely related goods.

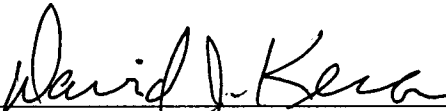
10. The registration of the mark identified in Application Serial No. 76/306,296 would be in violation of 15 U.S.C. § 1052(d) and in derogation of Toyota's rights in its L & Design mark.

WHEREFORE, TOYOTA JIDOSHA KABUSHIKI KAISHA, t/a Toyota Motor Corporation, respectfully requests that this opposition be sustained and that registration be refused on Application Serial No. 76/306,296 .

Respectfully submitted,

Toyota Jidosha Kabushiki Kaisha,
t/a Toyota Motor Corporation

By:



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Date:

April 26, 2004

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April 26, 2004

Honorable Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514



ATTORNEYS AT LAW

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Re: Toyota Jidosha Kabushiki Kaisha,
t/a Toyota Motor Corporation
Matter: Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation
v. JACK SCHWARTZ SHOES, INC.
Opposition Against Appln. Serial No.: 76/306,296
Class(es): 25
Atty Dkt. No.: 222140US-213-21



04-26-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

Dear Commissioner:

We enclose the following for filing in the U.S. Patent and Trademark Office:

☒ Notice of Opposition to Serial No. 76/306,296

Also enclosed is our check for the required filing fee in the amount of \$300.00.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.

David J. Kera

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